

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

JENNIFER and SLADE PIGGOTT
Plaintiffs,

v.

GRAY CONSTRUCTION, INC., et al.,
Defendants,

GRAY CONSTRUCTION, INC.,
Defendant/Third-Party Plaintiff,

v.

COOPER'S STEEL FABRICATORS,
INC., et al.,
Third-Party Defendants.

HWASHIN AMERICA CORPORATION)
Intervener Plaintiff,

v.

GRAY CONSTRUCTION, INC.
Intervener Defendant.

GRAY CONSTRUCTION, INC.,
Plaintiff,

v.

HWASHIN AMERICA CORP.,
Defendant.

Case No.: 2:06cv-1158-MEF

CASE NO. 2:07-cv-584-MEF

**LATTA PLUMBING'S RESPONSE TO HWASHIN AMERICA CORPORATION'S
AND TRAVELERS PROPERTY CASUALTY COMPANY OF AMERICA'S
MOTION TO INTERVENE**

COMES NOW Defendant Latta Plumbing & Construction Co., Inc. ("Latta Plumbing"), a

Third-Party Defendant in the above-captioned matter, and hereby responds to Hwashin America Corporation's and Travelers Property Casualty Company of America's Motion to Intervene (Doc. No. 173).

1. Latta Plumbing adopts and incorporates Section III, B of Gray Construction Company, Inc's., Opposition to Hwashin America Corporation's and Travelers Property Casualty Company of America's Motion to Intervene (Doc. No. 179, pp. 9-11) as if set forth herein.

2. Latta Plumbing maintains that since Hwashin is already a party to the above-captioned matter, Hwashin cannot seek to intervene in said action. "Intervention" pursuant to Rule 24, Fed. R. Civ. Proc., is a method by which an outsider with interest in a lawsuit may come in as party on his own application. *Premier Foods of Bruton, Inc. v. City of Orlando*, 192 F.R.D. 310, 311 (M.D.Fla. 2000) citing 7C Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, Federal Practice and Procedure, § 1901 (2d ed.1986); see also *MasterCard Intern. Inc. v. Visa Intern. Service Ass'n, Inc.*, 471 F.3d 377, 382 (C.A.2 (N.Y.) (2006)) ("[Rule 24] provides the mechanism by which non-parties who believe they have a valid and sufficient interest in a litigation can assert their rights. See Fed.R.Civ.P. 24(a)-(b). Rule 24 explicitly contemplates motions by non-parties. See Fed.R.Civ.P. 24(c) (setting forth procedural requirements for persons seeking to file motions to intervene)"); see also Baicker-McKee, Janssen, & Coor, Federal Rules Handbook (2007) ("Rule 24 governs situations in which persons not already parties man intervene in existing litigation.").

3. If the Court allows Hwashin to intervene, it will destroy diversity in this case.

Respectfully submitted,

/s/ Felicia A. Long

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CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of March 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system that will send notification of such filing to the following parties or counsel:

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